IN THE UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF ALABAMA SOUTHERN DIVISION

KENNETH B. ROYE,)	
Plaintiff,)	
VS.)	CIVIL ACTION NO. 05-0024-P-C
JO ANNE B. BARNHART, Commissioner)	
of Social Security,)	
Defendant.)	

ORDER ADOPTING THE REPORT AND RECOMMENDATION OF THE MAGISTRATE JUDGE

After due and proper consideration of all portions of this file deemed relevant to the issues raised, and there having been no objections filed, the Report and Recommendation of the Magistrate Judge made pursuant to 28 U.S.C. § 636(b)(1)(B) and dated August 12, 2005 (doc.14), is hereby ADOPTED as the opinion of this court.

Accordingly, it is ORDERED that the decision of the Commissioner of Social Security denying plaintiff benefits, be REVERSED and REMANDED to the Social Security Administration, pursuant to sentence four of 42 U.S.C. § 405(g), see Melkonyan v. Sullivan, 501 U.S. 89 (1991), for further proceedings consistent with this opinion.

The Remand pursuant to sentence four of § 405(g), makes plaintiff a prevailing party under the

Equal Access to Justice Act, 28 U.S.C. § 2412, see Shalala v. Schaefer, 509 U.S. 292 (1993), and terminates this court's jurisdiction over the matter.

DONE the 19th day of September, 2005.

S/Virgil Pittman
SENIOR UNITED STATES DISTRICT JUDGE